

REMARKS

I. Status of Application

By the present amendment, Applicant amends claims 2 and 4 for reasons of grammar and clarity. The amendments to claims 2 and 4 are not made for patentability reasons and do not narrow the scope of the claims. Accordingly, this amendment does not foreclose application of reasonable equivalents.

Claims 1-8 are all the claims pending in the application. Claims 1 and 4-8 presently stand rejected. Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

The present Amendment addresses each point of objection and rejection raised by the Examiner. Favorable reconsideration is respectfully requested.

II. Formal Matters

Applicant thanks the Examiner for acknowledging Applicant's claim to foreign priority and for indicating receipt of the certified copy of the Priority Document.

Applicant thanks the Examiner for considering the references cited with the Information Disclosure Statements filed on November 25, 2003, December 22, 2005, May 9, 2006 and October 13, 2006, respectively.

However, the Examiner did not indicate whether the Formal Drawings filed on November 25, 2003 are accepted. Applicant respectfully requests that the Examiner acknowledge and approve the aforementioned Formal Drawings.

III. Allowable Subject Matter

Applicant thanks the Examiner for indicating that claims 2-3 would be allowed if rewritten in independent form. However, Applicant respectfully requests that the Examiner hold in abeyance such rewriting until the Examiner has had an opportunity to reconsider (and withdraw) the prior art rejection of the other claims.

IV. Claim Objections

The Examiner has objected to claims 2 alleging various informalities. Claim 2 has been amended, as set forth above, to correct the informalities noted by the Examiner. Thus, Applicant respectfully requests that the Examiner withdraw this objection.

The Examiner has also objected to claim 4, alleging that “a QoS service content” (line 6) should be changed to “the QoS service content.” Applicant respectfully traverses this objection since claim 4 is an independent formulation of the present invention and since the recitation of “QoS service content” first appears in claim 4 on line 6. As such, the Examiner’s proposed corrections would provide an insufficient antecedent basis for this recitation. Accordingly, Applicant respectfully requests that the Examiner withdraw this objection.

Finally, the Examiner has objected to claim 4, alleging that “a recorded user’s authentication information” (line 12) should be changed to “the user’s authentication information.” Applicant has amended claim 4, as set forth above, and submits that such amendments obviate the Examiner’s objection. Therefore, Applicant respectfully requests that the Examiner withdraw this objection.

V. Claim Rejections

Claims 1 and 4-8 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Publication No. 2005/0286489 to Shin et al. (hereinafter “Shin”) in view of U.S. Patent No. 6,654,363 to Li et al. (hereinafter “Li”). Applicant respectfully traverses these rejections for *at least* the reasons set forth below.

In order for the Examiner to maintain a rejection under 35 U.S.C. §103, Shin, Li, or some combination thereof, must teach or suggest all of the recitations of claims 1 and 4-8. Applicant respectfully submits that neither Shin, Li, nor any combination thereof, teaches or suggests all of the recitations of claims 1 and 4-8.

A. Independent Claim 1

First, for example, claim 1 recites (among other things):

wherein said wireless LAN base station
comprises
means for receiving information for
identifying... a QoS service content of a user
whose authentication is required from a server...

That is, claim 1 expressly requires that authentication of the user is required from a server. The grounds of rejection rely on Shin as allegedly teaching this feature. However, the grounds of rejection fail to identify any aspect of Shin that teaches authenticating a user from a server. In fact, Shin fails to teach, or even remotely suggest this feature.

In contrast to the recitations of claim 1, Shin “relates to authentication of a wireless terminal” (emphasis added) and not authentication of a user, as claimed. Paragraph 0001. Indeed, paragraph 0014 of Shin, which is relied upon by the grounds of rejection, repeatedly emphasizes that the disclosure therein is directed to authenticating a terminal, and not a user as

claimed. For instance, Shin discloses “requesting authentication and charging of the wireless terminal,” “enabling data transmission and reception of the authenticated wireless terminal,” “receiving the authentication request message for the wireless terminal,” “confirming whether the wireless terminal has already been authenticated,” etc. (emphasis added). Paragraph 0014.

Unlike Shin, claim 1 recites authenticating a user. As explained in the present specification, for instance, the present invention provides a system for QoS control wherein a user can be authenticated and the same QoS service can be offered consistently, even when the terminal to be used is changed. *See e.g.*, page 2, lines 6-12. Since Shin is directed toward authenticating a specific terminal, Shin does not teach, and cannot possibly suggest, the claimed invention, which requires that authentication of the user is required from a server. Moreover, Li does not remedy the deficient teachings of Shin. Thus, Applicant submits that claim 1 is patentable over the cited references for *at least* these reasons.

Second, claim 1 further requires:

...the server being configured to...
authenticate the user of the wireless LAN network
whose authentication is required based on a
recorded user's authentication information...

As shown above, claim 1 requires the feature of authenticating the user based on a recorded user's authentication information. However, the grounds of rejection fail to identify any aspect of Shin that teaches authenticating the user based on the user's authentication information. Indeed, no aspect of Shin teaches or suggests this feature.

Quite to the contrary, as explained above, Shin teaches authenticating a specific terminal and, thus, Shin fails to provide any teaching or suggestion regarding a recorded user's authentication information. Moreover, Li does not remedy the deficient teachings of Shin.

Therefore, Applicant submits that claim 1 is patentable over the cited references for *at least* these additional reasons.

Third, the grounds of rejection fail because they do not identify a proper motivation to combine the disparate teachings of Shin and Li. The Examiner acknowledges that Shin fails to teach or suggest many of the recitations of claim 1. Nevertheless, the grounds of rejection apply the teachings of Li, alleging that Li remedies the deficient teachings of Shin and that one of ordinary skill in the art would have been motivated to modify the teachings of Shin with those of Li. In particular, the grounds of rejection allege that the IP QoS management mechanism taught in Li can be implemented in the wireless system of Shin by adding this protocol in the existing protocol stack at the base station and user terminal. Further, the grounds of rejection allege that a skilled artisan would have been motivated to do so “to carry[ing] out priority control in accordance with the priority information of the QoS service content.”

Such a motivation, as a matter of law, is insufficient. It evidences classic hindsight application and reasoning on the part of the Patent Office. By definition, every patented invention possesses some functional utility. Also, it has long been said that any new patented article is simply a novel collection of known elements. Using the reasoning applied by the Office Action, all patent applications could be rejected as obvious, on the basis that all the claimed elements are known and the motivation to combine them is simply to achieve the functional utility of the invention.

Further, the motivation cited by the Examiner does not show any reason why one of ordinary skill in the art would have been motivated to look beyond the four corners of the cited Shin reference to modify the authentication system taught therein with Li’s system for delivering

QoS on IP packet based connections. Indeed, the grounds of rejection state that the teachings of Li “can be modified/implemented in the wireless system of Shin by adding this protocol in the existing protocol stack at base station and user terminal.” 06/27/07 Office Action, p. 5. However, the mere fact that Shin *can* be modified with Li does not make the resultant modification obvious unless the prior art also suggests the desirability of the modifications. See *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Here, the grounds of rejection have failed to identify any aspect of either Shin or Li which suggests the desirability of adding Li’s protocol to an authentication system like that taught in Shin. In fact, the cited references do not teach or suggest any connection between authentication and delivering QoS at all.

Moreover, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Yet, the present Office Action fails to provide any evidentiary support whatsoever for the cited motivation to combine.

Accordingly, Applicant submits that claim 1 is patentable over the cited references for *at least* these reasons. Further, Applicant submits that the dependent claims 2-3 are patentable over the cited references *at least* by virtue of their dependency. Thus, Applicant respectfully requests that the Examiner withdraw these rejections.

B. Independent Claims 4-8

In view of the similarity between the requirements of claims 4-8 and the requirements discussed above with respect to independent claim 1, Applicant respectfully submits that arguments analogous to the foregoing arguments as to the patentability of independent claim 1

demonstrate the patentability of claims 4-8. As such, it is respectfully submitted that claims 4-8 are patentably distinguishable over the cited references *at least* for reasons analogous to those presented above. Thus, the allowance of these claims is respectfully solicited of the Examiner.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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